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REVIEW OF THE IMPLEMENTATION, MAINTENANCE, IMPROVEMENT AND UTILIZATION OF THE GENERALIZED SYSTEM OF PREFERENCES

Fourteenth general report on the implementation of the generalized system of preferences

Report by the UNCTAD secretariat

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CONTENTS

Chapter		Paragraphs
	Introduction and summary	1 - 5
I.	Changes and improvements in the system	6 - 27
	A. Introduction	6
	B. Beneficiaries	7 - 9
	C. Product coverage	10 - 12
	D. Safeguards	13 - 26
	E. Duration of the GSP schemes	27
II.	The incidence of non-tariff measures on imports of GSP-covered products	28 - 57
	A. Introduction	28 - 29
	B. Methodological considerations	30 - 35
	C. Incidence of non-tariff measures	36 - 54
	D. Conclusions	55 - 57
III.	Currently applied safeguard and *a priori* limitation provisions under the GSP	58 - 88
	A. Introduction	58 - 63
	B. Currently applied safeguard provisions under the various GSP schemes	64 - 83
	C. Conclusions	84 - 88
IV.	Trade effects of the system	89 - 96

Annexes */

Annex

I. Table 1: Inventory of non-tariff measures, 1989

Table 2: Trade coverage of non-tariff measures in 10 OECD preference-giving countries

Table 3: Major beneficiaries affected by non-tariff measures on imports of GSP-covered products, 1989

II. Table 1: Imports of preference-giving countries from beneficiaries of their schemes, 1976-1989

Table 2: Preferential imports into OECD preference-giving countries from their beneficiaries: Annual average increase for period 1976-1988

Table 3: Imports of preference-giving countries from least developed country beneficiaries of their schemes, 1976-1989

Table 4: Preferential imports into OECD preference-giving countries from their LDCs beneficiaries: annual average increase for period 1976-1988

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*/ For technical reasons the annexes are issued separately (see TD/B/C.5/134/Add.1).

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INTRODUCTION AND SUMMARY

1. This report on the implementation of the generalized system of preferences (GSP) has been prepared to assist the Special Committee on Preferences in its fourteenth periodic review of the operation and effects of the system. 1/ Chapter I highlights the changes and improvements that have taken place in the various schemes since the last comprehensive review of the GSP (TD/B/C.5/130, part one).

2. The EEC has extended preferential treatment to Bulgaria and Czechoslovakia on a temporary basis. It has also recognized Namibia as a beneficiary of its scheme, as have Norway, Switzerland and the United States of America. The product coverage of the EEC and United States schemes has been extended to cover new products offering a relatively significant opportunity to beneficiary countries to increase exports under the GSP. The graduation of four Asian GSP beneficiaries from the United States scheme has provided an opportunity for a more flexible administration of the GSP which has resulted in a large set of products, which were previously excluded by competitive need limits, to be redesignated as eligible for duty-free treatment under the GSP. In order to assist four Andean Group countries in their efforts to reduce dependence on drugs through the expansion of non-traditional exports, the EEC and the United States are providing special treatment. Measures under the EEC GSP scheme allow for special treatment on a temporary basis similar to that offered to least developed countries. The United States has likewise introduced accelerated procedures for adding products to the United States GSP scheme and is considering the possibility of providing these Andean countries with special preferential treatment similar to that offered under the Caribbean Basin Initiative. The GSP scheme of Japan, the first to complete its 10-year period, has received the endorsement of the Customs Tariff Council for an extension of another 10 years until March 2001, provided the Government of Japan takes appropriate action in the Diet.

3. Chapter II is a summary of the non-sessional paper "The incidence of non-tariff measures on imports of GSP-covered products". 2/ This study identifies non-tariff measures outside the GSP which are applied by preference-giving countries to products covered under the various GSP schemes. The findings of this background study corroborate the view expressed in paragraph 6 of Special Committee resolution 11 (XVII) which "Recognizes that non-tariff measures linked to GSP schemes can significantly reduce the benefits of those schemes". The study indicates that almost one quarter ($7.7 billion) of GSP-covered products ($33.3 billion) in 1986 trade terms would have been affected by actual NTMs applied by 10 OECD countries in 1989. The study also shows that GSP-covered products face a wide variety of NTMs and that certain preference-giving countries rely heavily on the use of "hard-core" NTMs. Major beneficiaries under the various GSP schemes appear to be those most affected by NTMs. Since use of NTMs carries the potential to reduce or eliminate the preferential margins under the schemes, preference-giving countries should consider taking action to deal with such NTMs in order to improve utilization of the GSP.

4. Chapter III is an overview of the currently applied safeguard provisions under the GSP. The information is designed to provide an input to preference-giving countries in their review of their respective schemes for the 1990s. In line with concerns registered in paragraphs 4 and 5 of

resolution 11 (XVII), which urge preference-giving countries to strive to reduce a priori limitations and restrictions on preferential imports and recommends that safeguards in the context of the GSP be in accordance with the annex to Board decision 75 (S-IV) and be based on objective criteria and transparent procedures, this chapter reviews the currently applied safeguard mechanisms under the various schemes. The evident diversity of the application of such safeguard measures leads to uncertainty and detracts from the stability and predictability of the schemes. While recognizing the autonomous nature of the GSP schemes, the chapter points to the safeguard procedures employed under the GSP scheme of Canada as a model which other developed countries may wish to consider. The objective and transparent procedures and legal nature of the Canadian scheme appear to come close to the interests of the Special Committee as expressed in paragraph 5 of resolution 11 (XVII).

5. Chapter IV updates the trade effects of the system to cover the most recent period for which information is available. Total imports by OECD preference-giving countries in 1988, other than Australia and New Zealand, amounted to roughly $371 billion, of which 76 per cent or $282 billion were MFN dutiable and therefore technically eligible for GSP. However, of this amount only $138 billion or 49 per cent consisted of products actually covered by schemes and $56.4 billion or 41 per cent of the covered imports actually received preferential treatment. GSP utilization rates varied from one scheme to another. However, under two major schemes, namely the EEC and the United States, these rates declined from 1987 to 1988, indicating the importance of the a priori limitations inherent in these two schemes. Following the graduation of the four Asian newly industrialized economies, the utilization rate from the United States GSP increased in 1989. This improvement in utilization is also partially a reflection of the more flexible administration of the United States scheme following the graduation of the four major suppliers. Examining average annual growth in preferential imports by OECD countries, the chapter indicates that increases in preferential imports are almost twice as high as that of imports from all sources. These generally high GSP-related growth rates are a demonstration of the increased product coverage of the schemes, the enhancement of beneficiary export supply capabilities and efforts to diversify exports towards non-traditional products. Imports by OECD preference-giving countries from LDCs amounted to roughly $3.5 billion in 1988 of which 57 per cent, or almost $2 billion, were MFN dutiable; of which in turn 55.6 per cent or $1.1 billion consisted of products covered by the schemes. Imports which actually received preferential treatment were valued at only $650 million. The average annual increases in LDC exports under the GSP was less rapid than in the case of all beneficiaries. This is largely due to a high dependence by LDCs on exports of duty-free primary and resource products, rules of origin difficulties, and lack of expertise among LDC traders or ignorance concerning the advantages of the GSP.

Chapter I

CHANGES AND IMPROVEMENTS IN THE SYSTEM

A. Introduction

6. This chapter briefly summarizes the modifications in the GSP schemes since the seventeenth session of the Special Committee, held in May 1990. Details of such changes and improvements are based on official notifications to the UNCTAD secretariat by preference-giving countries and are presented according to the common elements of the GSP to which they pertain.

B. Beneficiaries

7. Austria added Mongolia to the list of beneficiaries as from 1 July 1990. In its scheme for 1991 3/ the EEC added Bulgaria, Czechoslovakia, Mongolia and Namibia to the list of beneficiaries. However, the first two countries mentioned above are excluded from the benefits of the European Coal and Steel Community (ECSC) products. Elsewhere, Bulgaria and Czechoslovakia were added to the list of beneficiaries of the EEC MFA textile régime. In addition, Romania was granted preferential treatment for all the products for which it was previously not a beneficiary (except for ECSC items). The suspension of the Republic of Korea from GSP benefits was maintained. From 1 May 1990 Sweden added Jordan to its list of beneficiaries. From 1 December 1990 Switzerland added Mongolia and Namibia to its list of beneficiaries. Norway also added Namibia to its list of beneficiaries.

8. With effect from 1 July 1990 the United States deleted Liberia from its list of beneficiaries. At the request of the Governments of Chile, Paraguay and Central African Republic, the United States Trade Representative initiated a review of the suspension of these three countries. Upon conclusion of a review, these last three countries have been recognized as now meeting conditions providing internationally recognized workers' rights and therefore were redesignated as beneficiaries under the United States scheme as from 6 February 1991. Thailand and Indonesia were found to meet the programme's eligibility standards for workers' rights and will continue to be eligible for GSP benefits. Reviews of the beneficiary status of Syrian Arab Republic, Benin, the Dominican Republic, Haiti and Nepal have been extended for an additional year. The United States restored preferential treatment to Panama on 25 April 1990. As from 6 February 1991 the United States added Namibia to its list of beneficiaries.

9. On 29 June 1990 Bahrain was redesignated a GSP beneficiary. Bahrain had been removed from the United States list of beneficiaries in 1988 on the basis of World Bank per capita GNP figures which showed that Bahrain exceeded the statutory limit of the United States scheme. The World Bank has now published revised figures showing that Bahrain had not exceeded this limit.

C. Product coverage

10. In 1991, the EEC added six new agricultural products to its scheme. 4/ In addition, the EEC added two items 5/ to the list which includes products subject to fixed amounts with reduced levy.

11. On 1 January 1990, Sweden deleted one product which had become duty-free on an MFN basis 6/ from its scheme's list of excluded products.

12. The United States added 23 products 7/ to the GSP programme on 1 July 1990 in response to requests from both beneficiary countries and the private sector. It deleted seven products 8/ as a result of petitions filed by United States industry and trade associations or statutory programme requirements.

D. Safeguards

13. With effect from 3 November 1990, 9/ the EEC, in support of the "drug war" and in the context of its GSP scheme, granted certain Andean countries (Bolivia, Colombia, Ecuador and Peru) special preferential treatment similar to that already offered to LDCs on a temporary basis for a period of four years. The special treatment consists in granting exemption from quotas and ceilings and according duty-free treatment to industrial products, including ECSC iron and steel and textile products as well as to a specified list of products in the agricultural sector.

14. The extension of the country coverage has resulted in some modifications of the sensitive list. Therefore in 1991 the EEC added 12 items 10/ to the list of sensitive products and transferred one item 11/ from the sensitive list to the non-sensitive list of products.

15. The level of the Fixed Duty-Free Amount (FDFA) and/or tariff ceilings on sensitive products, with the exception of ECSC products and three sensitive items 12/ which remain at the 1990 level, has been increased by 5 per cent. Furthermore, a new reference base for non-sensitive products other than ECSC items is set at 6.3 per cent of 1988 extra EEC imports, instead of 6 per cent in 1990. This improvement represents a 5 per cent increase over that applied in 1990. However, for a certain number of products the reference base is set at 2.1 per cent instead of 2 per cent in 1990. Some new FDFAs have been established for Bulgaria, Czechoslovakia and Romania.

16. In the context of a differentiation policy, four industrial products have been excluded when imported from the Republic of Korea and one when imported from Romania. 13/

17. EEC scheme tariff quotas and tariff ceilings for MFA and non-MFA products have been increased across-the-board by 5 per cent in 1991. The 5 per cent increase of quotas, ceilings and fixed amounts is due to the reunification of the Federal Republic of Germany and the German Democratic Republic, which increased the EEC territory and population.

18. In application of the increased differentiation criteria, China has been excluded from preferential benefit in respect of two products 14/ and Brazil, 15/ Republic of Korea, 16/ and Mexico 17/ for one product each.

19. The amount annually allocated to 14 MFA textile products, 18/ is split into two six-month tranches in 1991.

20. With respect to agricultural products subject to fixed reduced-duty amount, the amount for preserved pineapples other than in slices, half slices, or spirals was increased from 47,320 to 48,030 tonnes, and that for flue-cured Virginia Tobacco from 66,950 to 67,954 tonnes.

21. Regarding products subject to fixed amounts with reduced levy, the amount for frozen loins of swine 19/ was increased from 4,000 to 4,500 tonnes and that for products known as "63 per cent duck" 20/ was reduced from 3,000 tonnes to 1,500 tonnes. However, a new amount of 1,500 tonnes was opened for "parts of duck". 21/ The amount opened for meat of domestic swine was increased from 2,000 to 2,500 tonnes. 22/

22. In fiscal year 1990, some 143 product groups under the scheme of Japan were subject to the administration of ceilings. 23/ Ceilings for 40 of these product groups were increased either by 6 per cent or 3 per cent. Ceilings for four other product groups were increased by more than 10 per cent. For the bulk of the remaining product groups (91), ceilings remained the same as set up for fiscal year 1989 while ceilings lower than fiscal year 1989 were set for a few product groups.

23. The Japanese Customs Tariff Council has proposed that, with effect from 1 April 1991, the base year for the ceiling calculation will be changed from 1982 to 1989. In addition, some ceilings shall be further expanded either by 50 per cent, 30 per cent or 10 per cent as a special measure for fiscal year 1991. As a result of the above-mentioned measures, the total amount of ceilings will be expanded by approximately 37 per cent to $9.63 billion.

24. With effect from 1 July 1990, the United States made the following changes: (a) the competitive need limits were waived for 15 products when imported from Mexico 24/ and for three products when imported from Malaysia; 25/ (b) it was determined that four products were not subject to competitive need limitations because no directly competitive articles were produced in the United States; 26/ (c) 10 beneficiary countries 27/ 28/ previously excluded from receiving GSP duty-free treatment because of competitive need limits, were redesignated for GSP duty-free treatment on 325 products valued at $US 1.7 billion or 80 per cent of the total amount of trade eligible for redesignation. The remaining items (55) were not redesignated and therefore graduated. It should be noted that in 1989, imports restored to GSP eligibility amounted only to $8.7 million while $2.45 billion were denied re-designation; (d) as a result of the de minimus provision, 29/ imports of some 185 products valued at $353 million were exempted in 1990 from the percentage competitive need rule and became eligible for preferences.

25. Following the annual product review, competitive need exclusions amounted to approximately $7.7 billion based on 1989 trade as compared to $6.2 billion affected by the statutory exclusions last year. Of the $7.7 billion excluded, $1.2 billion consisted of trade items where a beneficiary lost eligibility for the first time. 30/ Altogether 174 HS items were excluded in respect of one or more beneficiaries. The most affected beneficiary countries (ranked according to frequency of exclusion) were Mexico, Brazil, Thailand, Venezuela, Israel, Yugoslavia, Argentina, Dominican Republic, Malaysia, Philippines, Turkey, Guatemala, Bahamas, Colombia, India and Peru.

26. The United States 1990 GSP scheme included an accelerated implementation of decisions for product inclusions which affect Bolivia, Colombia, Ecuador and Peru as part of the President's Andean Trade package announced on 1 November 1989. Twenty-one decisions of special interest to the latter countries were implemented on 1 May 1990. 31/ All other decisions became effective on 1 July 1990.

E. Duration of the GSP schemes

27. The Japanese Customs Tariff Council, following a review of its GSP scheme on 20 December 1990, decided that the scheme should be extended for another 10 years until 31 March 2001. The Government of Japan will soon take the necessary steps to enforce this measure. The current life of most other schemes will end in 1991 and 1992. The possible extension and form the schemes may take in the 1990s is under review.

Chapter II

THE INCIDENCE OF NON-TARIFF MEASURES ON IMPORTS OF GSP-COVERED PRODUCTS

A. Introduction

28. During the seventeenth session of the Special Committee on Preferences, the second comprehensive review of the generalized system of preferences recounted the actual experience with the GSP over the past decade. Concern was expressed at the proliferation of non-tariff measures (NTMs) in several preference-giving countries which limits access to preferential treatment, thereby reducing the effectiveness of GSP schemes as trade promotion instruments. When exports of GSP-covered products confront NTMs in markets of preference-giving countries, beneficiaries find it difficult to expand exports in response to tariff preferences since NTMs counter the price incentives inherent in the preferential tariff margins.

29. Addressing this issue, paragraph 6 of Special Committee resolution 11 (XVII) adopted by the seventeenth session of the Special Committee on Preferences reads: "Recognizes that non-tariff measures linked to GSP schemes can significantly reduce the benefits from those schemes". The findings of a background study 32/ on this subject corroborate this view by finding that almost one quarter ($7.7 billion) of GSP-covered products ($33.3 billion) in 1986 trade terms would have been affected by actual NTMs applied in 1989 by 10 OECD countries. Results of the study also show that GSP-covered products face a wide variety of NTMs in the markets of preference-giving countries. Heavy reliance is placed by certain preference-giving countries on the use of "hard-core" NTMs. Based on these findings, NTMs can be expected to constitute an important deterrent to imports of GSP-covered products.

B. Methodological considerations

30. The NTMs examined were drawn from the UNCTAD Data Base on Trade Control Measures and divided into three classifications: "broad" definition NTMs; "narrow" definition NTMs; and quantitative restrictions.

31. The broad definition 33/ of NTMs includes certain para-tariff measures, import deposits and surcharges, variable levies, anti-dumping/countervailing duty actions (including investigations, duties, and undertakings), quantitative restrictions (including prohibitions, quotas, non-automatic licences, state monopolies, voluntary export restraints, restraints under the Multi-Fibre Arrangement (MFA) and similar textile arrangements), import surveillance, automatic licences, and certain price control measures. All NTMs applied at the border for which information is available from UNCTAD's Data Base on Trade Control Measures are included in the broad definition.

32. The narrow definition excludes from the broad group para-tariff measures, import deposits and surcharges, anti-dumping/countervailing duty actions, automatic licensing, and import surveillance measures. The excluded NTMs are those which have a potential to restrain imports, but are viewed as being less restrictive in impact than the NTMs retained in the narrow definition group. For example, automatic licences may be freely granted. They may be used primarily to monitor imports and to signal concern over import surges. Anti-dumping/countervailing duty actions are considered by many to have an uncertain impact on imports even though the threat of duty imposition can alter trade patterns in a manner similar to other NTMs. 34/

33. Quantitative restrictions reduce the quantity of imports of a particular good from all sources, or from a single supply source. Non-automatic licences, quotas, prohibitions, voluntary export restraints, single channel (State monopoly) for imports, and restraints under the MFA are included in this NTM category. These NTMs can have a pronounced restrictive impact on imports. Quantitative restrictions, along with the variable levy, are commonly referred to as "hard-core" NTMs. Considerable importance is attached to these "hard-core" measures when assessing the severity of NTMs.

34. The ideal measure of restrictiveness associated with a specific NTM would compare actual imports entering under the NTM with what imports would have been under free trade. Since such a comparison is not possible, it is common practice to assess the incidence of NTMs on imports by using the trade coverage ratio. The trade coverage ratio measures the share of total imports (by value) subject to a given NTM. This protection measure indicates the extent of NTM application rather than the effects of NTMs on prices, production, consumption, and import volumes.

35. GSP beneficiaries and GSP-covered products eligible for preferential tariff treatment in the 1986 base year were identified by using GATT trade and tariff computer tapes at the tariff-line level. 35/ Trade flows in GSP-covered products at the tariff-line level are matched with information on product-specific NTMs applied in 1989, contained in the UNCTAD Data Base on Trade Control Measures. 36/ Trade coverage indices are calculated for NTM groups, and results are aggregated to correspond to traditional product coverage groups as defined by the Standard International Trade Classification (SITC).

C. Incidence of non-tariff measures

36. Annex I, table 1, presents a detailed inventory of the NTMs found to apply against GSP-covered imports under schemes of major preference-giving countries. 37/ Figures in the table refer to the value of GSP-covered imports affected by each NTM. 38/ Annex I, table 2, indicates the impact of the NTMs on GSP product coverage under each of the 10 OECD preference-giving countries. The incidence of NTMs on GSP-covered products differs among the schemes depending on each country's trade policy orientation and the GSP product coverage in import-sensitive areas. Annex I, table 3, provides an indication of the 10 major GSP beneficiaries affected by non-tariff measures on imports of GSP-covered products. Figures in this table represent the value and percentage of GSP-covered imports facing NTMs from "most affected" beneficiaries. The beneficiaries most affected by NTMs also tend to be the major beneficiaries under each GSP scheme, except in the case of Austria.

37. The incidence of NTMs on GSP-covered imports into Austria was found to be extremely low. NTMs (broad definition) affected $8.7 million worth, or slightly more than 2 per cent of the total value of GSP-covered imports. About 400 trade flows were affected by these NTMs. These NTMs were applied in the agricultural sector only, and were product-specific, consisting primarily of quotas on unroasted coffee 39/ and, to a much smaller extent, price actions (variable levies) against imports of certain vegetables. Unlike other GSP schemes, the beneficiaries most affected by NTMs (annex I, table 3) were not found to be the major beneficiaries under Austria's scheme.

38. A large share of Canadian imports of GSP-covered products in 1986 was subject to NTMs. 40/ NTMs (broad definition) affected about $935 million worth, or 63.9 per cent, of GSP-covered products. Nearly 400 trade flows were affected by NTMs. The most common individual NTM applied across all GSP-covered items was automatic licences. "Hard-core" NTMs relied upon by Canada included restraints under the MFA, non-automatic licences, anti-dumping actions, and voluntary export restraints.

39. The use of NTMs in Canada was concentrated in iron and steel products, and in certain manufacturing sectors. Automatic licences were used to monitor iron and steel imports. 41/ Manufacturing sectors of considerable export interest to the developing countries were affected by "hard-core" NTMs. Non-automatic licences were applied to imports of clothing. A bilateral restraint agreement covered Canada's imports of textiles originating mostly from Hong Kong, Taiwan Province of China, the Republic of Korea, and China. Voluntary export restraints were used to regulate imports of certain footwear from the Republic of Korea, Hong Kong, and China.

40. Imports of GSP-covered products were strongly affected by anti-dumping actions. Such actions were primarily associated with iron and steel imports from the Republic of Korea, Brazil and Mexico, and shoe imports originating from the Republic of Korea, China, and Hong Kong.

41. Imports of GSP-covered products in 1986 into the 10 EEC countries were affected substantially by NTMs (broad definition) which applied to more than one half of the total value of such imports. Trade coverage for these NTMs amounted to $4,217 million and NTMs affected more than 9,000 trade flows of GSP-covered products. A wide range of individual NTMs were applied to both agricultural and manufactured goods, including automatic licences, anti-dumping/countervailing duty actions, and "hard-core" NTMs such as variable levies, quotas, restrictions under the MFA, and voluntary export restraints. Measures taken under the Common Agricultural Policy (CAP) which affected GSP-covered products included price actions (price surveillance, reference prices, variable levy), non-automatic licences, automatic licences, and quotas. NTMs were also important deterrents to imports of iron and steel products. Included here were certain categories of automatic licences, price actions (price surveillance), voluntary export restraints, and anti-dumping/countervailing duty actions. Voluntary export restraints affected imports primarily from the Republic of Korea, Brazil, Venezuela, and Romania. Restraints under the MFA covered the EEC's imports of certain textile products. Valued at $3.7 billion, the MFA restraint agreement had the greatest trade coverage of any "hard-core" measure used by the EEC.

42. Finland applied NTMs (broad definition) to slightly more than 11 per cent of the total value of GSP-covered products amounting to $47.3 million. About 150 trade flows were found to be affected by NTMs. Finland employed the following NTMs by order of importance: non-automatic and automatic licensing, a MFA consultation agreement, quotas and price actions (variable levy).

43. More than 70 per cent of the value of GSP-covered imports were agricultural products. NTMs used in agriculture included non-automatic licences, global quotas on certain fruit and fruit juices, and variable levies on certain meat and vegetables. Automatic licences were used on imports of iron and steel products, and on selected manufactured product categories. Finland's MFA consultation agreement with Hong Kong, Macao, Pakistan, India,

the Republic of Korea, Thailand, Sri Lanka, Romania, and Malaysia constituted the most important "hard-core" NTM faced by GSP-covered imports of manufactured products.

44. Japan's trade coverage of NTMs across all GSP-covered products was $439.4 million. About 6 per cent of the total value of such products were affected by five NTMs (broad definition) against about 600 trade flows of GSP-covered products. "Hard-core" NTMs, such as quotas, non-automatic licences, and State monopolies of imports were the most important NTMs used on both agricultural and manufactured products.

45. Considerable use was made of global quotas and prohibitions in both agricultural raw materials and leather products. These NTMs had the greatest trade coverage by value. Non-automatic licensing of imports affected more than one third of the value of GSP-covered textile imports, and was also used to regulate trade in chemicals and selected agricultural products. The State monopoly on imports maintained by Japan, primarily on certain alcohol used in beverage products, had the lowest impact on GSP-covered products.

46. Non-tariff measures (broad definition) applied by Norway affected $134.6 million worth, or more than 30 per cent, of all GSP-covered imports. NTMs affected more than 300 trade flows. A variety of NTMs were applied which included automatic licences, discretionary licences, price actions (minimum prices), non-automatic licences, global quotas, import authorizations, and state monopoly of imports. The incidence of NTMs, as measured by the trade coverage ratio, was the greatest in the agricultural sector.

47. Most NTMs were sector-specific in application. Heavy reliance was placed on minimum prices, global quotas in the case of flowers and other plants, and on non-automatic licences in agriculture. A State monopoly of imports governed trade in certain chemical products. Imports of manufactured products, other than those identified separately in the tables, were affected by automatic licences. Non-automatic licences were necessary for imports of certain manufactured goods, primarily textiles, clothing, and footwear, as well as for selected agricultural products.

48. Sweden applied NTMs (broad definition) to $50.6 million worth, or about 9 per cent, of the value of all GSP-covered products. NTMs were found to affect more than 400 trade flows. The categories of individual NTMs used included automatic licences, State monopoly of imports, price actions (variable levies), import authorizations, non-automatic licences, and quotas. The incidence of NTMs was greatest in agriculture where considerable use was made of variable levies and State monopoly of imports. Non-automatic licences and quotas affected a small part of the value of agricultural imports. Certain steel imports were subject to automatic licences, and certain chemical imports were controlled by a State monopoly of imports. Automatic licences were required for imports of some textile products.

49. Non-tariff measures (broad definition) were applied to approximately 8 per cent of the total value of Switzerland's GSP-covered imports. The trade coverage of NTMs amounted to $88 million. More than 300 trade flows were affected by these NTMs. Quotas, automatic licences, non-automatic licences, and State monopoly of imports were the primary NTMs used. "Hard-core" NTMs with the greatest trade coverage by value included non-automatic licences and

global quotas. Considerable use was made of NTMs to support the regulated agricultural market, while only a small number of industrial imports were subject to NTMs.

50. Agricultural imports faced the "hard-core" NTMs, non-automatic licences, quotas, and prohibitions. Seasonal tariffs and seasonal quotas were applied to most fruit and vegetables to support the "three phase system", whereby imports were permitted to replace seasonal shortfalls in domestic production but were restricted when Swiss fruit and vegetables were in season. Industrial sectors were relatively free of NTMs.

51. Trade coverage in the United States of NTMs (broad definition) was about $1.6 billion, or 12 per cent of the total value of GSP-covered imports. More than 300 trade flows of GSP-covered products were affected by NTMs. Anti-dumping/countervailing duty actions, quotas, and price actions (flexible import fees), were the primary NTMs used. Unlike most other nations, the United States did not make use of an import licensing system. NTMs on MFA products did not play a role as they are legally excluded from the United States GSP scheme.

52. Agriculture had the highest incidence of NTMs. Flexible import fees and quotas were specific to the agricultural sector, and were governed by Section 22 of the Agricultural Adjustment Act. Such measures were used to maintain the price support programmes operated by the United States Department of Agriculture. In the case of GSP-covered products, these NTMs were primarily used to regulate imports of certain products containing sugar. 42/ Most other GSP-covered agricultural products did not face quantitative import restrictions.

53. Imports of most GSP-covered industrial products were not affected substantially by NTMs (narrow definition). Little emphasis was placed upon the use of "hard-core" NTMs in manufacturing since, as mentioned above, most import-sensitive products from the iron and steel, textile and clothing, certain chemical, and leather product groups were statutorily excluded from GSP-eligibility under the United States' scheme.

54. Anti-dumping/countervailing duty actions constituted the most important NTM group in terms of the value of trade coverage. Cut flowers, iron and steel products, and non-ferrous metal products were the major targets of such actions, which were invoked to a lesser degree in chemicals and in selected manufactured products.

D. Conclusions

55. One might expect imports of GSP-covered products to be relatively free of NTMs, since many import-sensitive items were statutorily excluded from GSP-eligibility under most schemes. However, this was not found to be the case as imports of GSP-covered products confront a wide variety of NTMs in the markets of preference-giving countries. Considerable reliance was placed by some of these countries on the use of "hard-core" NTMs to limit imports eligible for preferential tariff treatment. Examples include variable levies in the EEC, quotas and non-automatic licences in Japan, voluntary export restraints in Canada, non-automatic licences in Canada, and restrictions under the MFA in the EEC, Canada, and Finland.

56. Major beneficiaries under the various GSP schemes appeared to be those most affected by NTMs. Percentages of GSP-covered imports facing NTMs for each of these beneficiaries were found to be extremely high in all cases. Since major beneficiaries also tend to be affected most by quantitative limitations inherent in GSP schemes, these limitations and NTMs outside the GSP can be expected to exhibit similar country incidence patterns.

57. On the basis of the results of this investigation, particularly those related to the "hard-core" NTMs, it is clear that NTMs constitute, affect and could be an important deterrent to imports of GSP-covered products. This NTM use runs counter to the original intent of the GSP, namely to extend preferential treatment to exports from developing countries. Preference-giving countries should therefore take action to deal with the NTMs which limit GSP benefits by eroding incentives inherent in preferential tariff margins. An important means by which improved utilization of the GSP could be achieved would be to exempt GSP-covered products from NTMs used in markets of preference-giving countries. These countries should also refrain from imposing new NTMs which would serve to limit their imports of GSP-covered products.

Chapter III

CURRENTLY APPLIED SAFEGUARD AND A PRIORI LIMITATION PROVISIONS UNDER THE GSP

A. Introduction

58. As part of the second comprehensive review of the GSP during the seventeenth session of the Special Committee on Preferences, attention was drawn to the safeguard mechanisms applied under the various GSP schemes, in particular the diversity of such measures, the lack of transparency in their operation and the consequent instability which they give to the effective utilization of the system. These concerns were registered in paragraphs 4 and 5 of Special Committee resolution 11 (XVII) which read:

> "4. Urges preference-giving countries to strive to reduce a priori limitations and restrictions on preferential imports and impart stability and predictability to the scheme;
>
> "5. Recommends that safeguard measures in the context of the GSP, if taken, be in accordance with the annex to Board decision 75(S-IV), and be based on objective criteria and transparent procedures".

59. As most preference-giving countries are now reviewing their respective schemes and the possible form they might take if extended throughout the 1990s, it may be useful to review the safeguard mechanisms currently applied so as to provide input to the review process.

60. The agreed conclusions annexed to Trade and Development Board decision 75(S-IV) state that individual schemes of preferences may provide for certain safeguard mechanisms, such as escape-clause type measures or a priori limitations, in order that preference-giving countries retain some degree of control over the trade generated by the GSP. Preference-giving countries have the right to limit or withdraw, entirely or in part, the tariff advantages granted, if deemed necessary. However, preference-giving countries declared that such measures would remain exceptional and would be decided on only after taking due account, in so far as their legal provisions permitted, of the aims of the generalized system of preferences and the general interests of the developing countries. The agreed conclusions also provide for appropriate consultations with beneficiary countries in connection with the use of safeguard measures and, where such consultations were not possible, called for preference-giving countries to inform all beneficiary countries, through the Secretary-General of UNCTAD, with a minimum of delay, of the action taken. Furthermore, safeguard measures should be reviewed from time to time with the aim of relaxing or eliminating them as quickly as possible. Thus, within the context of the GSP, two forms of safeguard measures were envisaged, escape-clause type measures and a priori limitations. The former apply under most schemes and are generally broadly analogous to the intent of GATT Article XIX, namely to provide temporary respite from surges of GSP imports which cause or threaten to cause injury to domestic industries. 43/

61. A priori limitations are used as the principal safeguard mechanism under some schemes. Such mechanisms, which largely apply to industrial products, include ceilings, maximum country amounts, competitive need limitations, fixed or reduced duty-free amounts and fixed amounts with reduced levy. These measures are generally applied on an annual basis to a priori designated

import-sensitive products. They can affect all beneficiaries or be country/product specific. In some cases, under certain schemes, these limitations are not used on an annual or temporary basis but as a means for country/product graduation (e.g. the discretionary non-redesignation of competitive-need limitations or progressive lowering of the maximum country amounts or reducing fixed duty-free amounts after competitive thresholds are reached prior to outright country/product graduation).

62. Under most schemes, safeguard measures of an escape-clause nature are seldom used. This is largely due to the a priori legal exclusion of import-sensitive items from the product coverage of the schemes, thus nipping in the bud any possibility for GSP-related import surges. Safeguard actions under certain GSP schemes are also practically precluded owing to selective product coverage lists or differential tariff margins which discriminate against more competitive suppliers.

63. If, as called for in resolution 11(XVII), paragraph 4, preference-giving countries are going to strive to reduce a priori limitations and restrictions in order to impart more stability and predictability to their schemes, safeguard measures would have to be more heavily relied upon to provide temporary relief from surges of GSP imports which cause or threaten to cause injury in the markets of preference-giving countries. The introduction of reasonable, objective and transparent safeguard measures should also be considered if resort to use of other means to protect local industry, such as country or country/product graduation measures based on arbitrarily determined competitiveness criteria, are to be reduced or be avoided together. While recognizing that GSP schemes are autonomous, some consideration should be given to harmonizing safeguard measures applied under the various schemes so as to impart more stability and predictability to the GSP.

B. Currently applied safeguard provisions under the various GSP schemes 44/

64. The following brief review of the safeguard provisions applied under the various GSP schemes is intended to provide an overview of the diversity of the measures currently applied.

65. In the case of the GSP scheme of Australia, preferences are applied without exemptions or exclusions and without provision for either injury appeals or country graduation developing status.

66. The Austrian GSP scheme provides regulations for the suspension of preferential treatment due to excessive imports and serious injury of the domestic economy. The Federal Minister of Finance issues regulations with a view to suspending the application of preferential tariffs on specific products as follows: where total imports of the product in question from all beneficiaries increase by more than 25 per cent; or where imports from a beneficiary already ranking as first or second supplier of that product exceed 10 per cent; and if these imports cause or threaten to cause serious injury to domestic producers or similar or directly competitive products. If these conditions apply, the following measures will be taken: if the overall imports from all beneficiary countries together have been found excessive, the product in question will be temporarily excluded from preferential treatment for all beneficiaries. If, however, only imports from one beneficiary have been found excessive, only this beneficiary will be affected by the suspension of preferences on a given product.

67. Prior to ordering any such measures, the Federal Minister of Finance has to consult with the Federal Minister of Trade, Commerce and Industry and with the Federal Minister of Foreign Affairs and, where applicable, with the Federal Minister of Agriculture and Forestry. These rates of increase of imports as well as an individual country's share in total imports are calculated on data for the preceding year.

68. Whether Austrian producers are being seriously injured by excessive imports of a given product is determined by the Federal Minister of Trade, Commerce and Industry. He consults, where applicable, with the Minister of Agriculture and Forestry. The data on which his/their decision is based are provided by the Central Statistical Office. As soon as the preconditions no longer apply, the Federal Minister of Finance consults with the other Ministers involved to consider cancelling the suspension regulations.

69. Under Decree No. 81 of the Council of Ministers of 31 December 1980, Bulgaria adopted its customs tariff and GSP legislation. The Bulgarian GSP scheme at present does not provide for a safeguard clause. 45/

70. Czechoslovakia 46/ may resort to safeguard measures in exceptional cases, taking due account of the interests of the developing country concerned. Under such measures, the imports of goods enjoying reduced rates may be limited in order to safeguard the interests of the Czechoslovakian economy, particularly in cases where the volume of imports may cause or threaten to cause injury to domestic producers of like or directly competitive products.

71. The GSP scheme of the European Economic Community (EEC) provides for specific legislation on safeguard measures depending on the categories of products. Industrial products considered by the EEC as sensitive, textile products and a limited number of agricultural products are subject to a priori limitations taking the form of fixed duty-free amounts and ceilings for the industrial products, tariff quotas, ceilings and fixed duty-free amounts for textiles and fixed reduced-duty amounts for the agricultural products. As GSP imports are severely restricted by quantitative limits, no escape-clause measures apply to those products. On the other hand, products which are not under a priori limitations, such as industrial products considered by the EEC as non-sensitive and the agricultural products included in the EEC scheme (with the exception of those products already mentioned), are subject to escape-clause measures. These measures, as a general principle, allow the EEC authorities to reintroduce the MFN rate of duty, once preferential imports cause or threaten to cause economic difficulties in the Community. A limited group of products (certain agricultural products which are under variable levies) comes under both kinds of safeguard measures: a priori limitations, taking the form of fixed reduced-levy amounts, plus escape-clause measures. The EEC regulations lay down the procedures to be followed in order to implement the a priori limitations and the escape-clause measures. Those procedures only involve the EEC institutions (Commission and Council) and the EEC member States.

72. Finland has a special act on preferences concerning duty and import charges on goods originating from developing countries. In accordance with these safeguard provisions, duty-free treatment may be withdrawn by the Government for a period of one year at a time, if as a result of the preferential treatment accorded, importation of products causes or threatens

to cause essential injury to domestic producers. "Essential injury" means significant economic harm to the producers of like or competitive products. The request for the withdrawal of duty-free treatment has to be submitted to the Government. The benefits may be withdrawn selectively. The temporary termination of preferences can apply to all products or particular products of one or several countries. It can, however, only apply to countries from which injurious imports stem.

73. The Hungarian 47/ General Customs Legislation provides for the possibility to increase or reduce for a determined period of time the tariff rate established in the Hungarian Customs Tariff, or the tariff rates for individual goods, or to suspend their application provisionally.

74. In addition to a priori limitations (e.g. ceilings and maximum country amounts), the Japanese GSP scheme applies in the case of agricultural products (HS Chapters 1-24) an escape clause system, under which Government orders may be issued to suspend the GSP to specified products or countries, when its application leads to an emergency that is damaging to domestic industries. For mining and industrial products (HS Chapters 25-97) the escape clause system is applied in principle to products not covered by a priori limitations.

75. The Norwegian GSP scheme provides that, when products included in the preferential scheme are imported into Norway in such quantities and under such circumstances so as to cause or threaten to cause market disturbance, Norway may ask for consultatons with exporting countries in order to counter or avoid such disturbances. Tariffs or quantitative restrictions may be imposed.

76. Under the law implementing the GSP scheme of Poland, 48/ no provisions are made for a safeguard clause.

77. The GSP scheme of Switzerland provides for a safeguard clause in its Federal Order of 9 October 1981, which extended GSP for an additional 10-year period. It indicates that if the effect of tariff preferences on goods traffic is such that vital Swiss economic interests are affected or in danger of being affected, or if trade flows are seriously disputed, the Federal Council may modify or suspend the tariff preferences or take any other action it deems necessary for such time as the circumstances warrant.

78. In a GATT notification of February 1987, Sweden reported some changes in its GSP scheme. The text forwarded to GATT relating to a safeguard clause in the context of the GSP read: "In critical circumstances of market disruptions, or threat of market disruptions, the Government of Sweden reserves its right to reintroduce MFN treatment in the tariff field to the extent to which the GSP treatment applies. Such safeguard measures can be introduced against imports from that or those countries whose exports cause or threaten to cause market disruptions or against all beneficiary countries". It should be noted that this provision is not integrated in the Swedish legislation but it is contained in a proposal (1971:93) made by the Government to the Parliament.

79. The United States of America does not provide for a specific safeguard clause in the GSP context. In fact, the United States programme utilizes mainly a priori limitations in the form of "competitive need limits" and graduation policies to limit preferential imports. However, during the annual review process a United States producer may file a petition to remove

preferential treatment. In this regard, "country practices" defined by law in respect of a beneficiary country can also be questioned. If a country is found to contravene these criteria it may lose its beneficiary status. Also Section 201 of the Trade Act of 1974, as amended, codifies into United States trade law Article XIX of the GATT. This provision has, however, never been used in the context of the GSP scheme.

80. The scheme of the USSR 49/ was introduced without any reservation whatsoever that might give grounds for the reintroduction of customs duties or other equivalent safeguard measures.

81. The GSP scheme of Canada, like other schemes, embodies safeguard procedures which provide for the withdrawal of GSP rates, either in whole or in part, from any country or countries should imports cause or threaten to cause injury to domestic producers. A Canadian producer may submit a petition to the Canadian International Trade Tribunal (CITT), an independent, quasi-judicial body. If the Tribunal is satisfied that the petition has merit, it conducts a public inquiry and reports its findings to the Minister of Finance regarding the continued application of the GSP for that product. In addition to the views of Canadian producers, the Tribunal takes into account the views of exporting beneficiary countries, exporting firms or their representatives, Canadian importers and consumers. The Minister of Finance tables the Tribunal's report in Parliament and, following consideration of its conclusions, recommends a course of action for approval. A GSP safeguard investigation by the CITT examines whether imported goods at GSP rates are directly contributing to the cause of injury, indicates the relative importance of the GSP preferences as a cause of injury, determines if there are a number of factors contributing to a producer's difficulties, determines the source of the imports which are the cause of injury, and considers whether the withdrawal of the GSP on the product or products concerned would in fact provide significant relief for the Canadian producer.

82. The Tribunal has to complete its work and report to the Minister within 180 days after the initiation of the enquiry. If, during the procedure, preferences are shown to be causing or threatening to cause injury, it is up to the Government to decide whether or not to take action, namely withdraw the tariff preference on the product or impose a tariff quota. The Government decision is normally announced within a period of three months. When relief is provided, it is generally in place for three years. The Tribunal normally gives notice of the expiry of the relief measure about 10 months before its date of expiry. If no request for review of the relief is received, it is allowed to expire as scheduled.

83. The case of Canada is a notable exception among other GSP schemes in that it contains precise indications about the criteria and the procedure to be followed in the case of petitions lodged to the CITT for the application of safeguard action. The procedures, as contained in a Federal law, are transparent and more predictable than under other schemes. The fact that developing countries or their representatives may make representations to the tribunal, rather than leaving the matter to the discretional authority of an executive or administrative body, ensures a judicial review of the case. Above all, the mere fact that the whole procedure is laid down in a detailed legal text for this specific purpose makes the whole process more observant of the principle of legal certainty and stability.

C. Conclusions

84. Safeguard provisions under the GSP schemes were originally conceived in Trade and Development Board decision 75(S-IV) as the main tool, along with a priori limitations, for retaining some degree of control by preference-giving countries over the trade generated by their GSP schemes.

85. Over time, the GSP schemes have become less transparent and predictable in their administration as a priori limitations differ from scheme to scheme and are operated under different subjective criteria and determination. The resort to safeguard actions rather than to permanent and discretionary product/country limitations would enhance the transparency and the value of the system for beneficiaries. When improving their schemes for the 1990s, preference-giving countries may wish to take this finding into account.

86. Article XIX of the GATT provided the model in shaping safeguard clauses in the context of most of the GSP schemes. However, the implementation of these clauses and their application differs widely from scheme to scheme, creating a further element of instability in addition to the a priori limitations. The wording of the safeguard clauses as inserted in the schemes also varies, especially in regard to injury determinations again creating problems of legal certainty.

87. The existence of safeguard clauses based on independent criteria and varying from scheme to scheme poses a further potential threat to increased GSP utilization by beneficiary countries. Furthermore, the present lack of "objective and transparent procedures" in the application of safeguard clauses hampers any action to expand product coverage. The effectiveness and stability of the GSP could be greatly enhanced if the provisions relating to safeguards in the agreed conclusions are strictly adhered to by preference-giving countries and, particularly if multilaterally agreed, objective and transparent criteria for injury determination could be adopted.

88. If preference-giving countries, in the review of their respective schemes for the 1990s, commit themselves to "... strive to reduce a priori limitations and restrictions on preferential imports" in order "... to impart stability and predictability to the schemes", close attention could be paid to the safeguard procedures applied under the GSP scheme of Canada. These provisions appear to come close to the wishes of the Special Committee as expressed in paragraph 5 of resolution 11(XVII).

Chapter IV

TRADE EFFECTS OF THE SYSTEM

89. Since the publication of the report by the UNCTAD secretariat entitled "Comprehensive review of the GSP", 50/ additional GSP statistics have been received from several preference-giving countries for the years 1988 and/or 1989. This updated information is contained in annex II, table 1.

90. As shown in this table, total imports by the OECD preference-giving countries in 1988, other than Australia and New Zealand, amounted to $371 billion, of which 76 per cent, or $282 billion, were MFN dutiable and therefore fell within the purview of the GSP. However, only $138 billion, or 48.8 per cent, of these dutiable imports consisted of products covered by the schemes, and $56.4 billion, or 41 per cent, of these covered imports actually received preferential treatment in 1988.

91. The ratio of preferential imports (or imports which actually received preferential treatment) to covered imports ("utilization rate") varied, as usual, from one scheme to another. It continued to decline under two major schemes, i.e. those of the EEC and the United States. In the case of the EEC, the utilization rate declined from 37.6 per cent in 1987 to 36.8 per cent in 1988, while under the scheme of the United States, the ratio dropped from 38.1 per cent in 1987 to 36.7 per cent in 1988. This decline indicates the importance of the a priori limitations inherent to these two schemes which have a negative impact on preferential imports. However, in the case of the United States scheme for which 1989 data are available and after the exclusion of the four Asian NIE's (Hong Kong, Republic of Korea, Singapore and Taiwan Province of China) the overall ratio of utilization jumped from 36.7 per cent in 1988 to 41.1 per cent in 1989. As for the third largest scheme, that of Japan, the ratio increased from 51.6 per cent in 1987 to 53.4 per cent in 1988, owing to the recent improvements in the scheme. However, perhaps because of the new limits fixed for the maximum country amount (25 per cent instead of one third of the ceiling opened for each product group under the scheme) the ratio dropped to 51.6 per cent in 1989.

92. If preferential imports by Australia and New Zealand from their beneficiaries 51/ were added to the other imports of OECD preference-giving countries in 1988, preferential imports would attain the high level of approximately $60 billion - a fivefold increase from the $12 billion recorded in 1976, the first year that all schemes were in operation. 1988 was also a significant year because it was the last year during which the four Asian NIE's (Taiwan Province of China, Hong Kong, Republic of Korea and Singapore) enjoyed preferences under the United States GSP scheme. In 1987, preferential imports into the United States from these four countries amounted to $9.7 billion. Their exclusion from the United States scheme as of 1 January 1989 left considerable room for preferential imports from other beneficiaries and, in particular, allowed a more flexible administration of the United States GSP scheme.

93. Because of this shift under the United States scheme, it is interesting to analyse the progress of preferential imports between 1976 and 1988. As shown in annex II, table 2, between 1976 and 1988 the annual average increase of preferential imports by OECD preference-giving countries (excluding Australia and New Zealand) amounted to 15.7 per cent. The annual average

increase of preferential imports is almost twice as high as that of imports from all sources as well as total imports from beneficiaries. It should be noted, in the case of Canada, the EEC, Finland, Sweden and Switzerland, that the annual average increase of total imports from beneficiaries was lower than that from all sources. The annual average increase of covered imports from beneficiaries to OECD preference-giving countries amounted to 16 per cent and that of dutiable to 15.3 per cent. These high rates could be interpreted as a remarkable result of the GSP after two decades of its application. The high rate of annual increase of covered imports is the result of the continual efforts to improve the product coverage under the schemes. Increased dutiable imports result from an enhancement of the beneficiaries' export supply capabilities and efforts in export product diversification. This performance is also partially due to increased awareness of the advantages of the GSP resulting from the technical co-operation activities undertaken by UNCTAD in beneficiary countries.

94. As shown in annex II, table 3, total imports by OECD preference-giving countries under their repective schemes, other than Australia and New Zealand, from least developed country beneficiaries amounted to about $3.5 billion in 1988 (this amount should be higher because 1987 was taken into account in the case of the United States instead of 1988). More than half of this amount (57 per cent or almost $2 billion) was MFN dutiable and therefore fell within the purview of the GSP. Of these dutiable imports, 55.6 per cent ($1.1 billion) consisted of products covered by the schemes. Imports which actually received preferential treatment were valued at about $650 million or about 59 per cent of dutiable imports. The utilization rate varied widely among the least developed countries (LDCs) as well as among the schemes.

95. Likewise for all beneficiaries mentioned above, as shown in annex II, table 4, imports from LDCs increased sharply between 1976 and 1988 (the last year for which figures are available). However, this increase was less rapid than in the case of all beneficiaries during the same period. This fact could lead to the conclusion that the LDCs still depend on their exports of primary and resource-based products, which in general are MFN duty-free. Furthermore, the product coverage of several schemes does not yet include dutiable products of special export interest to LDCs. In particular agricultural products of export interest to LDCs are still excluded from certain schemes, especially the major ones. In addition, the growth rate of preferential imports which was 14.1 per cent is also smaller than that of all beneficiaries, i.e. 15.7 per cent. This result is perhaps due to combined reasons, for example the threshold of origin requirements under the schemes is too high for LDCs to meet, lack of expertise among operators in the LDCs or ignorance of the existence of the GSP. It should be noted that several LDCs have not yet notified the names of their certifying authorities to some preference-giving countries.

96. Nevertheless annex II, table 4, is encouraging since annual growth rates for dutiable, covered and preferential imports exceed total imports by OECD countries, indicating an increased awareness of the GSP and a relative shift in the composition of exports towards dutiable products and away from duty-free products.

Notes

1/ The thirteenth periodic review is included in the comprehensive review of the GSP in TD/B/C.5/130, part one.

2/ UNCTAD/ITP/55 - paper prepared by Professor D. Clark of the University of Tennessee.

3/ See Official Journal of the European Communities, L 370 of 31 December 1990.

4/ Products identified by the following CN code: 07.07.0019 (cucumbers...); 07.11.4000 (cucumbers...), 08.10.3010 (blackcurrants...), 08.10.3030 (redcurrants), 20.07.9910 (plum purée...), 20.07.9931 (jams... of cherries...).

5/ Products identified by the following CN codes: (a) ex 02.07.3955, ex 02.07.4315, ex 02.07.3973, ex 02.07.4353, ex 02.07.3977, ex 02.07.4363 (order number 59.0025: parts of ducks...); (b) 02.10.1951 (other of domestic swine boneless) which is included within item covered by order number 59.0040 (51.0040 in 1990).

6/ Rubberized tyre cord fabric made of synthetic fibre (H.S. 59.0200).

7/ Products identified by the following H.S. tariff lines: 0710.22.25, 0811.90.52, 1102.90.30, 1104.29.00, 2004.10.40, 2308.90.50, 2924.29.42, 2935.00.44, 3407.00.20, 3812.30.20, 6116.10.50, 6216.00.23, 6216.00.29, 6216.00.47, 6304.99.25, 6911.10.60, 6912.00.46, 7005.29.25, 7614.90.20, 8532.29.00, 8541.40.80, 9607.11.00, 9607.19.00.

8/ Products identified by the following H.S. tariff lines: 3503.00.40, 3912.20.00, 6307.90.87, 7312.10.50, 7312.10.60, 7312.10.70, 7312.10.90.

9/ See Official Journal of the EEC, No. L 308, Council Regulations No. 3211/90 and Decision 90/542/ECSC.

10/ Products identified by the following order numbers: 10.0112 (Ethylbenzene), 10.0162 (Acetone), 10.0282 (Acrylonitrile), 10.0402 (Amonium nitrate), 10.0407 (Mixture of amonium nitrate with calcium carbonate...), 10.0408 (Mixture of urea and ammonium nitrate...), 10.0752 (Drawn glass ...), 10.0792 (Rovings), 10.0902 (Hexagon bolts...), 10.1113 (Other tractors), 10.1217 (Seats and parts thereof), 10.1227 (other furniture).

11/ Products identified by the following order number: 10.1325 which covers four NC codes: 95.07.1000, 95.07.2090, 95.07.3000 and 95.07.9000 (fishing rods, fish-hooks...).

12/ Products identified by the following order numbers: 10.0610 (fibreboard), 10.0720 (porcelaine or china tableware) and 10.0770 (table glassware).

13/ Republic of Korea: Products identified by the following order numbers: 10.0245 (Toluidines...), 10.0950 (Knives...), 10.1045 (Microwave ovens) and 10.1325 (Fishing rods...). However, the Republic of Korea is still suspended from the scheme as a whole. Romania: Product identified by the following order number: 10.0240 (isoprophylamine...).

14/ China: Products identified by the following categories: 10 (Gloves) and 40 (woven curtains).

15/ Brazil: category 43 (Yarn...).

16/ Republic of Korea: Category 109 (Tarpaulins...).

17/ Mexico: category 55 (synthetic staple fibres...).

18/ Categories from 1 to 9, 15, 16, 17, 20 and 39.

19/ Products identified by the following order number 59.0010 (51.0010 in 1990).

20/ Products identified by the following order number: 59.0020 (51.0020 in 1990).

21/ Products identified by the following new order number: 59.0025 (parts of ducks, fresh, chilled or frozen).

22/ Products identified by the following order number: 59.0040 (51.0040 in 1990).

23/ The former product groups No. 32 (Rubber tyres, etc... , other than those used on motor vehicles), No. 106 (Silver) and No. 110 (Non-alloy pig iron) have been deleted from the list of ceiling quotas because the effective duties of the products in these product groups have been reduced to duty-free. The product group No. 56-2, which includes articles of wood of Kwarin, Tsuge or boxwood, Tagayasan (Casia Siamea), red sandalwood, rosewood, is newly established and is administered independently. For this last product group flexible maximum country amount and flexible ceiling treatment are applied.

24/ The following eight products, for which limits were waived, were subject to lower competitive need limits (25 per cent of all United States imports or $34.7 million in 1989) when imported from Mexico. H.S. 3904.10.00, 8421.23.00, 8421.31.00, 8505.19.00, 8523.20.00, 9503.70.80, 9503.90.50 and 9503.90.60. The seven remaining products (H.S. 3903.19.00, 4818.10.00, 4818.20.00, 4818.30.00, 8471.20.00, 8471.91.00 and 8511.30.00) for which limits were waived were subject to all competitive need limits (50 per cent of all United States imports or $88.9 million in 1989).

25/ H.S. 8471.99.30, 8504.40.00 and 8525.20.30 were subject to all competitive need limits.

26/ H.S. 1515.30.20, 2001.90.33, 2005.90.87 and 9405.91.10.

27/ For 1990, individual countries previously excluded from receiving GSP duty free treatment for a particular product may be redesignated for GSP benefits if their 1989 shipments of individual items fell below 1988 competitive need limits.

28/ Argentina (one product), Bahamas (four products), Brazil (90 products), India (one product), Israel (two products), Mexico (210 products), Papua New Guinea (one product), Peru (seven products), Thailand (one product) and Zambia (eight products).

29/ The applicable de minimus limit was $10,437,764 of imports in 1989.

30/ These totals exclude trade granted competitive need waiver.

31/ The following six products of special interest to exports of the Andean Group were added to the list of eligible products in favour of all beneficiaries: H.S. 0710.22.25, 0811.90.52, 1102.90.30, 1104.29.00, 2004.10.40, 2308.90.50. Redesignation and de minimus waivers apply to Colombia (three products), Ecuador (one product) and Peru (12 products).

32/ Don P. Clark, "Incidence of non-tariff measures on imports of GSP-covered products" UNCTAD/ITP/55.

33/ See table 1 for classifcations of NTMs.

34/ Mark Herander and J. Brad Schwartz, in "An empirical test of the impact of the threat of U.S. trade policy: the case of anti-dumping duties", Southern Economic Journal (July 1984), found that foreign firms do incorporate the threat of anti-dumping duties into their pricing decisions, and may act to restrict shipments. See also TD/B/1240, pp. 10-11.

35/ Excluded from the analysis are products designated as GSP-eligible but which enter preference-giving countries duty-free on a temporary MFN basis, and GSP-eligible products for which no trade is recorded.

36/ The UNCTAD Data Base on Trade Control Measures is described in UNCTAD/DDM/Misc.18. Only NTMs outside the GSP are included in the present analysis.

37/ Data were not available to assess GSP schemes offered by Australia or New Zealand.

38/ The figures in table 1 are not additive since they count the value of trade affected by a given NTM, i.e. many NTMs may affect a given tariff line. This information thus indicates the relative importance of each NTM in each scheme.

39/ In certain countries, measures are applied in the framework of international commodity agreements. As some of these measures discriminate against imports originating in non-member countries, these measures have been included in the Data Base, but normally only with regard to imports from non-member countries. The measures are maintained in the Data Base, even though they may not be operational at all times, for instance when the free market price is above the "stabilized" price level, provided that price fluctuations can automatically activate the relevant measure.

40/ The high level of aggregation of the Canadian Customs Tariff may cause calculated ratios to overstate the importance of NTMs in cases where NTMs apply to only part of a tariff line.

41/ Import monitoring through automatic licensing resulted from the concern that import restrictions in the EEC and the United States might induce foreign producers to divert trade to Canada or to use this market for circumvention of NTMs applied in the United States.

42/ Following a GATT panel report finding that sugar import quotas were in violation of international trade rules, the United States replaced quotas by a tariff quota system effective 1 October 1990.

43/ However, preference-giving countries are not legally bound under the GSP to respect prior consultation, non-selectivity, the temporary nature and compensation clauses, etc., contained in Article XIX.

44/ The most recent detailed discussion of these provisions under each scheme may be found in TD/B/C.5/121 "Review of the generalized system of preferences in pursuance of paragraph 105(5) of the Final Act of UNCTAD VII"; UNCTAD/ITP/14 "The generalized system of preferences: A review of changes in the schemes since their inception"; and, TD/B/C.5/130 "Comprehensive review of the generalized system of preferences, including its implementation, maintenance, improvement and utilization".

45/ The preference-giving countries of Eastern Europe are currently adapting their trade régimes, including their GSP schemes, to be compatible with a market orientation. Their new safeguard regulations were not known or available at the date of this publication (see also footnote 3).

46/ Idem.

47/ Idem.

48/ Idem.

49/ Idem.

50/ TD/B/C.5/130.

51/ Preferential imports of these two countries in 1988 are roughly estimated at $3 billion.